HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No.546 OF 2007

Between:

T. Jayarao

… Appellant

And

Government of India,
Ministry of Commerce,
New Delhi, rep., by its
Secretary and two others

… Respondent

::JUDGMENT::

Counsel for the appellants : Smt. K. Udaya Sri

Counsel for respondent Nos.2 and 3 : Shri Bharath Reddy for
Shri S. Srinivas Reddy

June 29, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 28-11-2006 passed by the learned Single Judge in Writ Petition No.10623 of 1996, whereby he declined to entertain the appellant's challenge to the termination of his service with effect from 21-5-1996 on the ground of availability of an alternative remedy under the Industrial Disputes Act, 1947 (for short, 'the 1947 Act').

The appellant was engaged as a daily wage employee in the services of the Tobacco Board with effect from 17-6-1992. After two years, he was conferred temporary status with a clear indication that

he will not be entitled to be brought on the permanent establishment without selection through regular selection process prescribed for Group 'D' posts. After another two years, his service was terminated vide notice dated 21-5-1996.

The appellant challenged the termination of his service by asserting that the Tobacco Board falls within the definition of industry as defined in Section 2 (j) and the action taken by the Secretary of the Board to terminate his services is vitiated due to violation of Section 25-F and 25-G of the 1947 Act.

The learned Single Judge refused to entertain the grievance of the petitioner on the premise that an effective alternative remedy is available to him under the 1947 Act.

We have heard Smt. K. Udaya Sri, learned counsel for the appellant and Shri Bharath Reddy, counsel for respondent Nos.2 and 3 and perused the record.

In our opinion, the view taken by the learned Single Judge is in consonance with the law laid down by the Supreme Court in **Premier Automobiles Ltd. v. Kamalakar Shantaram Wadke**[1], **Rajasthan State Road Transport Corporation v. Krishna Kant**[2], **U.P. State Bridge Corpn. Ltd. v. U.P. Rajya Setu Nigam S. Karmachari Sangh**[3], **U.P. State Spinning Co.Ltd. v. R.S. Pandey**[4], **A.P. Foods v. S. Samuel**[5] and **Uttaranchal Forest Development Corpn. v. Jabar Singh**[6]. Therefore, we do not find any justification to upset the order under challenge and entertain the appellant's prayer for invalidation of the action taken by the respondents.

In the result, the appeal is dismissed with liberty to the appellant to avail remedy under the 1947 Act.

As a sequel to dismissal of the appeal, WAMP. No.1055 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

June 29, 2007

C.V. NAGARJUNA REDDY, J

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[1] AIR 1975 SC 2238

[2] AIR 1995 SC 1715

[3] (2004) 4 SCC 268

[4] (2005) 8 SCC 264

[5] (2006) 5 SCC 469

[6] (2007) 2 SCC 112